

THE GEORGE WASHINGTON UNIVERSITY
Washington, D. C.

MINUTES OF A REGULAR MEETING
OF THE FACULTY SENATE HELD ON
FEBRUARY 12, 1988, IN LISNER HALL
ROOM 603

The meeting was called to order by President Elliott
at 2:10 p.m.

Present: President Elliott, Registrar Gaglione, Berkovich,
Birnbaum, Burks, Cohn, Deering, Elgart, Fox,
Garris, Grub, Kirsch, Levy, Liebowitz, Lovett,
Moore, Morgan, Paratore, Pierpont, Reeves,
Robbins, Robinson, Schiff, Shotel, A. Smith, G.
Smith, Tolchin, and Yezer

Absent: Vice President French, Parliamentarian Schechter,
Barron, Cibinic, Clark, East, Loeser, Simons,
Solomon, and Zubrow

The President then introduced Professor Stephen J. Del
Giudice, who served as Parliamentarian in the absence of
Professor Schechter.

APPROVAL OF THE MINUTES

The minutes of the regular meeting of January 15, 1988, were
approved as distributed.

OLD BUSINESS

Before proceeding, the Chair, upon request by the Executive
Committee, asked that the order of business be changed so that
Resolution 87/5 could be taken up before Resolution 87/4. No
objection was made.

- I. RESOLUTION 87/5, "A RESOLUTION TO ALTER THE FACULTY
CODE, SECTIONS IV-A-3.1-b)-3) AND IV-A-4.1-b)&c)
(deferred to February 12, 1988)

On behalf of the Committee on Appointment, Salary and
Promotion Policies, Professor Schiff, Chairman, moved the
adoption of Resolution 87/5 with the following changes in the
second and third RESOLVING clauses:

- (2) Section IV-A-4.1-b) of the Faculty Code be amended to read:

"b) Assistant Professors
Assistant Professors shall be appointed for
a period of not more than three years, and
may be reappointed with or without tenure
for one or more additional periods."

- (3) Section IV-A-4.1-c) of the Faculty Code be amended to read:

"c) Associate Professors
Associate Professors ~~shall~~ may be appointed
with tenure or for a period of not more
than four years without tenure, and may be
reappointed with or without tenure for one
or more additional periods."

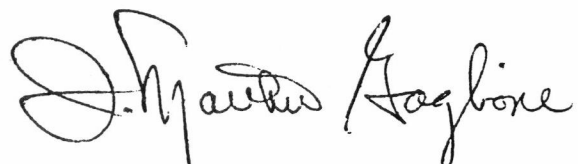
The motion was seconded. Professor Schiff explained that these changes were not substantive, but intended for clarification only. He pointed out that this resolution would now make it possible to appoint someone at the associate professorial level with tenure. Professor Levy asked if the language "for one or more additional periods" in the second RESOLVING clause meant an additional period of some undefined length. Professor Schiff replied that that was the present wording of the Faculty Code which might or might not be for three years. The question was called, and Resolution 87/5, as amended, was adopted. (Resolution 87/5, as amended, is attached.)

II. RESOLUTION 87/4, "A RESOLUTION FOR ADOPTION OF REVISED CODE OF STUDENT CONDUCT (reintroduction and further consideration deferred to February 12, 1988)"

Professor George W. Smith, Chairman of the Committee on the Judicial System, asked the privilege of the floor for Gail S. Hanson, Dean of Students. Dean Hanson read a prepared statement in which she urged the Senate's endorsement of the revised Code of Student Conduct. (Remarks by Dean Hanson are attached and made a part of these minutes.)

Professor Smith then asked the privilege of the floor for Adam Freedman, President of the George Washington University Student Association. Mr. Freedman said that the proposed revision had been reviewed by some of his colleagues on the Student Association and had also been discussed by the Joint Committee of Faculty and Students. There were some specific areas in the document where the students had some questions, but, he understood, that those questions had been cleared up. Mr. Freedman said that, in general, the students believed that the proposed new Code was a fair document.

A discussion followed covering Paragraphs 7 through 28 of the revised Code. Amendments were moved by Professors Morgan, Robbins, G. Smith, Fox, Yezer, and Levy. Participating in the discussion of the amendments were Professors George Smith, Berkovich, Deering, Robinson, Tolchin, Grub, Kirsch, Dean Hanson, Associate Dean McAleavey, and Mr. Weitzner. At this point, Professor Kirsch moved to adjourn the meeting. The motion was seconded. By a vote of 10 to 6, the meeting was adjourned at 4:25 p.m. (Amendments adopted by the Senate are attached and made a part of these minutes.)



J. Matthew Gaglione
Secretary

A RESOLUTION TO ALTER THE FACULTY CODE, SECTIONS IV-A-3.1-b)-3)
AND IV-A-4.1-b)&c) (87/5)

WHEREAS, greater clarity of intent can be achieved by re-ordering and re-wording Sections IV-A-3.1-b)-3) and IV-A-4.1-b) of the Faculty Code; and

WHEREAS, the University can make itself more competitive in the recruitment of new regular faculty by permitting the offer of tenure to associate professors at the time of initial appointment (Code Section IV-A-4.1-c));
NOW, THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY:

(underlining indicates amendments)

- (1) That Section IV-A-3.1-b)-3) of the Faculty Code be made Section 1, i.e., the lead-off paragraph in Section IV-A-3.1-b), and the other sub-sections re-numbered accordingly; and

That new Section 1 read:

"1) A faculty member with more than three years' previous full-time service at another institution may be appointed at any rank below that of professor without tenure for four years as a term or condition of his or her initial appointment, even though his or her total period of service in the academic profession is thereby extended beyond seven years." and

- (2) That Section IV-A-4.1-b) of the Faculty Code be re-worded to read:

"b) Assistant Professors
Assistant Professors shall be appointed for a period of not more than three years, and may be reappointed ~~with-or~~ with or without tenure for one or more additional periods.

- (3) That Section IV-A-4.1-c) of the Faculty Code be re-worded to read:

"c) Associate Professors
Associate Professors ~~shall~~ may be appointed
with tenure or for a period of not more than four
years without tenure, and may be reappointed
~~with or~~ with or without tenure for one or more
additional periods."

December 7, 1987

Committee on Appointment, Salary and Promotion Policies

Deferred 1/15/88 to February 12, 1988, Senate meeting

Adopted, as amended, February 12, 1988

A RESOLUTION FOR ADOPTION OF REVISED CODE OF STUDENT CONDUCT (87/4)

WHEREAS, The Code of Student Conduct was written in a time of student unrest, dissension, and general dissatisfaction on college campuses; and

WHEREAS, The current Code is unnecessarily cumbersome and overly legalistic; and

WHEREAS, Because of its cumbersome nature, the Code is frequently ignored or not followed as precisely as required; and

WHEREAS, There is a need to revise the Code to make it more reflective of the current disciplinary processes and procedures; and

WHEREAS, The proposed Code is a product of a year-long effort involving students, faculty, and staff; and

WHEREAS, The proposed Code better protects the interest of all members of the University; NOW, THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY:

That the new Code of Student Conduct prepared by the Committee on the Judicial System be adopted by the University.

Committee on the Judicial System and
Executive Committee of the Faculty Senate
November 20, 1987

Deferred 12/11/87 to January or February, 1988, Senate meeting

Deferred 2/12/88 to March 11, 1988, Senate meeting

Opening Remarks to the Faculty Senate
February 12, 1988

For the last year and a half, Judicial Affairs has been associated with the Dean of Students Office. At the time I inherited oversight of the disciplinary program, the greatest point of concern was the growing disparity between the disciplinary environment our present judicial system was designed to address and the environment in which we find ourselves actually operating.

Our present judicial document is based in large part on the principle that students can govern themselves and sit in judgement of their peers. This principle is being seriously compromised, because student involvement in our present system is limited to participation as judges in formal court proceedings; and as Professor Starrs indicated to you in his remarks at the beginning of the December Senate meeting, we have only had about half a dozen court hearings in the ten years or more that he has been University Representative to the Judicial System.

Six cases in ten years does not represent much student participation in disciplinary activities...and I assure you that we have had to address more than six incidents of student misconduct in that space of time. Professor Starrs asked the Senate, "Why do we need all the drastic changes?" The response is, first, that we do not see the changes being proposed as "drastic." Both the present document and the proposed Code have as their objectives procedural due process for students charged with misconduct and meaningful peer involvement in disciplinary

activities. Years of experience have taught us that our disciplinary case load is overwhelmingly more suited to informal than formal resolutions. As a consequence, the inherent authority granted University officials by the present judicial document is now used almost exclusively. Some data from recent judicial activity reports will illustrate this point:

Security incident reports trigger most disciplinary actions. Last year 107 out of 231 reports required follow-up (that is they could not be resolved on the scene). Almost half of the incidents were disorderly conduct, usually verbal abuse of Security officers and other campus staff; approximately a third were thefts, usually of non-University property, such as STOP signs, brought back to campus. Sanctions imposed included warnings, restitution, community service, disciplinary probation and the like. Out of all of this activity, only one case was heard by the Student Court, and this was a matter in which a student, sanctioned for a minor offense, failed to comply with the sanction.

In 1985-86 there were just two Student Court hearings, both, again involved minor offenses in which the student did not comply with sanctions at a lower level. In 1984-85, there was one hearing; from 1975 or so to 1984, no hearings were held, and we have not yet had one this year.

There has been virtually no appellate activity except for cases of students appealing parking tickets issued by GW Parking.

Thus, some of the changes being proposed are necessary because the present document does not set out procedural

guarantees nor does it provide for peer review in the resolution of minor instances of student misconduct.

The present Judicial System and the proposed Code both rightly provide greater procedural guarantees for cases in which sanctions of suspension or expulsion may be involved. However, current hearing procedures for such cases are technically complex and time-consuming in ways that discourage their use. Neither do these elaborate requirements necessarily achieve greater fairness than would less formal procedures. The present judicial system, in this respect, serves student's interests very poorly.

The proposed Code, on the other hand, embraces the principle consistently upheld by the courts, that "University disciplinary proceedings can provide a fair hearing for a student facing suspension without using all the procedures required in criminal trials." This judgement was most recently issued in January by the U.S. Court of Appeals for the First Circuit. This same court opinion goes on to say that "The undue judicialization of an administrative hearing, particularly in an academic environment, may result in an improper allocation of resources and prove counterproductive." Certainly the grievance procedures we have adopted for faculty and staff acknowledge this.

Let me make a final point about the proposed changes. Those of us who work daily with disciplinary matters, and the members of the Committee on the Judicial System who have worked for over a year on the proposed Code of Conduct, believe that the Code represents a sound approach to student discipline at GW. So does the University's legal counsel. It provides students with notice

of our expectations for their behavior and defines prohibited conduct. The present document does not. The proposed Code provides for student involvement in informal as well as formal disciplinary proceedings. The present document does not.

As you resume consideration of the Code today, I know there will be points on which we will disagreecertain phrases and provisions may be problematic to you. I think we can work these things out. What I ask on behalf of the Committee on the Judicial System is that you ultimately endorse the proposed Code of Conduct. I think in doing so, you will serve students well.

Gail S. Hanson
Dean of Students

THE FOLLOWING AMENDMENTS WERE ADOPTED BY THE FACULTY SENATE AT ITS FEBRUARY 12, 1988, MEETING TO PARAGRAPHS 7 THROUGH 28 OF THE REVISED CODE OF STUDENT CONDUCT (underlining indicates new language).

Interim Suspension

Par. 7. p. 4 (line 11) "a substantial and immediate threat to himself or to others or to the," etc.

Par. 8.b) p. 4 (line 4) "substantial and immediate threat to himself or herself or to others," etc.

Prohibited Conduct

Par. 11.1) p. 6 (line 1) "illegal use or possession of any controlled substance or," etc.

Par. 11.n) p. 6 (line 1) "failure to comply with the reasonable directions of University," etc.

Sanctions

Par. 12.e) p. 7 (line 3) "a definite period of time not to exceed two one years."

Par. 12.f) p. 7
"Expulsion: termination of student status and exclusion from University privileges and activities. ~~for an indefinite period of time, or permanently, as set forth in the notice. Conditions of readmission, if any, shall be stated in the expulsion notice.~~

Par. 13. p. 7
"Violations of part 11 (a) through (h) of Code may result in expulsion from the University. Violations of Part 11 (i) through ~~(l)~~ (m) of this Code may result in suspension from the University. Violations of Part 11 (n) through (p) of this Code may result in lesser sanctions as listed in Part 12. Significant mitigating factors shall be considered, which may include the present demeanor," etc.

Par. 15. p. 8 (line 1) "Attempts to commit acts prohibited by this Code ~~shall~~ may be punished," etc.

Standards of Due Process

Par. 17. p. 8

Substitute language, as follows:

NOTE: The proposed
substitute language
(shown opposite)
was referred to
Committee on the
Judicial System for
consideration.

"The purpose of a disciplinary
proceeding is to provide a fair
evaluation of an accused's responsibil-
ity for violating disciplinary
regulations. Although formal rules of
evidence need not be applied, proce-
dures shall comport with standards of
fundamental fairness."

Case Referrals

Par. 21. p. 9 (lines 1-2)

"Any person may refer a student(s)
or a student group or organization
suspected of violating this Code to
the Director," etc.

Hearing Referrals

Par. 24. p. 10 (line 2)

"may defer disciplinary proceedings
for alleged minor violations," etc.

Judicial Boards

Par. 25.b) p. 10

"The University Hearing Board hears all
cases resolved in accordance with Part
30 of this Code. The Board is composed
of a pool of ten members, ~~nine~~ eight
full-time students and ~~one~~ two full-time
members of the faculty. At least five
of the ~~nine~~ eight student members must
be residents of University housing.
Five members shall be selected by the
Director, Office of Judicial Affairs, to
hear each case. If the alleged
misconduct might result in suspension or
expulsion from the University, at least
one of the five members selected shall
be a faculty member. A presiding
officer shall be appointed, who will
participate in and preside over all
hearings.

Par. 26. p. 10

Except as provided in Part 25 (a) of this Code, the decisions of each judicial board shall be regarded as a recommendation to the Vice President for Student Affairs, or a designee. In those cases in which suspension or expulsion is proposed and approved or recommended by the Board, the Vice President for Academic Affairs, in concert with the Vice President for Student Affairs, will receive the recommendation and take action."

THE GEORGE WASHINGTON UNIVERSITY
Washington, D. C.

The Faculty Senate

February 1, 1988

The Faculty Senate will meet on Friday, February 12, 1988, at 2:10 p.m., in Lisner Hall 603.

AGENDA

1. Call to Order
2. Approval of the minutes of the regular meeting of January 15, 1988
3. Old Business:
 - (a) A RESOLUTION FOR ADOPTION OF REVISED CODE OF STUDENT CONDUCT (87/4) DEFERRED TO FEBRUARY 12, 1988; Professor George W. Smith, Chairman of the Committee on the Judicial System and member of the Executive Committee (Resolution 87/4 is attached)
 - (b) A RESOLUTION TO ALTER THE FACULTY CODE, SECTIONS IV-A-3.1-b)-3) AND IV-A-4.1-b)&c) (87/5) deferred to February 12, 1988; Professor Stefan O. Schiff, Chairman, Appointment, Salary and Promotion Policies Committee (Resolution 87/5 is attached)
 - (c) Interim Report by Professor Arthur D. Kirsch, Chairman, Special Committee on Mandatory Retirement, deferred to February 12, 1988
4. Introduction of Resolutions
5. General Business:
 - (a) Interim Reports by Chairmen of Senate Standing Committees
 - (b) Report of Executive Committee: Professor Lilien F. Robinson, Chairman
6. Brief Statements
7. Adjournment



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